

**IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY
CRIMINAL DIVISION
COLUMBUS, OHIO**

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|-----------------|---|-------------------------------|
| STATE OF OHIO, | : | |
| | : | |
| Plaintiff, | : | Case No.: 13 CR 004732 |
| | : | |
| v. | : | JUDGE JENIFER FRENCH |
| | : | |
| Matthew CORDLE, | : | |
| | : | |
| Defendant. | : | |

BRIEF SUPPLEMENTING DEFENDANT’S MOTION TO MODIFY SENTENCE

Now comes the Defendant, by and through his undersigned counsel, who hereby respectfully submits to this Court the following in support of the Motion to Modify Sentence filed on September 10, 2019. The purpose being to offer to the Court background information regarding the Defendant’s sentence and his record while incarcerated, as well as a sentence recommendation.

Respectfully submitted,

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MEMORANDUM

I. Background and Procedural History

In 2013, the Defendant pleaded guilty to Aggravated Vehicular Homicide under R.C. 2903.06, a felony of the second degree, and Operating a Vehicle Under the Influence of Alcohol under R.C. 4511.19, a misdemeanor of the first degree. On August 20, 2019 counsel for the Defendant filed a Motion for Nunc Pro Tunc Judgment to Correct Errors in the Original Judgment Entry. On September 10, 2019 the Court put on a Judgment Entry Nunc Pro Tunc wherein this Court corrected the pronounced and journalized sentence of six months in prison to properly reflect 180 days in jail, to commence upon completion of the Defendant's mandatory felony sentence of six (6) years. Also on September 10, 2019, Counsel for the Defendant filed a Motion to Modify Sentence requesting that the Court modify the maximum jail sentence imposed in favor of a term of community control sanctions for the first-offense OVI. Presently, the parties are scheduled for a hearing on the Defendants' for modification on September 30, 2019. In support of modification of the Defendant's sentence, Counsel for the Defendant offers the following:

II. Defendant's Background, Institutional Record, and Rehabilitation

Matthew Cordle is a young man who, prior to this case, was a law-abiding citizen and who has since learned a hard life-long lesson on the dangers and resulting tragic outcomes of driving after consuming an intoxicating amount of alcohol. Mr. Cordle immediately accepted responsibility for his actions and the consequences. The manner in which a 22-year old "millennial" chose to confess, identify himself, and show genuine remorse was the subject of some debate. As such, it garnered national media attention. Many applauded Matt's sincere efforts, while others cast doubt on the true motivation and if he would follow through on his acceptance of responsibility. There is now, no doubt that the 28-year old Mathew Cordle has

followed through with the statements and promises made viral (for better or worse) by the 22-year old Matthew Cordle. Matt's behavior was the result of poor decision making and a lack of consideration for the consequences of his behavior both stemming from his immaturity and alcohol abuse. He has never denied this.

Matt has grown substantially since the incident and is committed to remaining sober. Matthew strongly regrets his past decisions and has taken the steps necessary to develop himself into a better person and ensure a positive future. Substantial grounds mitigating Matthew's actions include the fact that he has come to realize the harmful consequences associated with his conduct and has gained perspective on the importance of upholding the law. He has promised to honor the memory of Vincent Canzani and has maintained that commitment.

As previously mentioned, in accordance with his original sentence, Matthew has served six (6) years in a state penitentiary. During his incarceration, Matthew has had much time to reflect on the situation and is genuinely remorseful for his actions. The time spent incarcerated has allowed Matthew to gain a true appreciation for the consequences of his actions and take the steps necessary to become a better person.

While incarcerated, Matthew has been involved in numerous programs, both as a member and, in some ultimately earning the opportunity of serving as a mentor. Such programs include: *OASIS Therapeutic Community, Be Responsible, Sinclair Advanced Job Training, As a Man Thinketh, Treatment Readiness Program (TRP), Intensive Outpatient Program (IOP), Recovery Maintenance, and Alcoholics Anonymous/Narcotics Anonymous (AA/NA).*

Matthew enrolled in the OASIS Therapeutic Community early on in his incarceration and worked with counselors and peers toward discovering the root causes for his thought processes and behavior patterns. Through the program, Matthew acquired the tools necessary to positively alter and develop his ways of thinking and behavior. After completion of the OASIS program, Matthew remained in that community as a mentor for nearly three years to both further his own

rehabilitation and recovery and to give back to others the many opportunities he had been fortunate enough to experience. (Exhibit A).

Matthew also joined IOP (intensive outpatient treatment) in order to remain focused and maintain his recovery. In this program, Matthew learned many of the same principles as in the OASIS program and was able to sharpen his skills and even help others in the group as well. Matthew found both programs extremely beneficial and credits the counselors and the programs for enabling him to change his life for the better. (Exhibit B).

Matthew was also involved in Sinclair Community College's Advance Job Training (AJT) as tutor. On his inmate evaluation report, the Pickaway Correctional Institution AJT Instructor rated each aspect of Matthew's performance as "excellent" and commented that Matthew is a "huge help" and is "much appreciated by AJT staff." (Exhibit C). Further, Matthew has completed two pathways through the AJT program, and has earned numerous certificates such as Entrepreneurship, Social Service Assistant, CDCA, Customer Service Technician, Re-Entry Preparation, Hospitality Specialist, Servsafe Certified, and Supply Chain Technician. (Exhibit D & E).

Matthew also has served two years as a tutor for AJT where he assists other students. (Exhibit F). In addition, Matthew has received an Associate Degree in Social Sciences through Ohio University's Correctional Education Program. (Exhibit G & H). Currently, Matthew has taken 117 credit hours and is only two semesters away from earning a bachelor's degree in psychology. Matthew is determined to complete these semesters upon his release, which will assist him in living a better life after incarceration. Earning his degree and other certificates has instilled in Matthew a strong work ethic and discipline.

Simply put, Matthew is extremely disappointed in himself for the events that transpired and will forever deeply regret his actions. He has expressed genuine remorse for his behaviors and for the pain that he has caused to many people. However, through all of the programs he has

completed, both educational and personal/social skills based, Mr. Cordle has grown as a man in all aspects. He has dedicated his time in prison to making a change and becoming a better person for himself, others, and society as a whole. This is Matt's promised fulfilled.

Although Matthew has received one minor disciplinary citation while incarcerated, his time in prison has been productively spent through his completion of many programs, serving as a tutor and mentor to others, continuing his education, and earning multiple certificates and an associate degree. (Exhibit F). In sum, Mr. Cordle has truly worked hard toward bettering himself and changing his life for the better.

Matthew will have gainful employment immediately after he is released from prison. Matthew has a resume prepared and is planning to actively search and apply for jobs after he is released so that he may begin working as soon as possible. (Exhibit I). Matthew has developed a 90-Day Release Plan that breaks down his goals into those for 30 days after release, 60 days after release, and 90 days after release. Matthew also established a daily schedule to implement upon his release until he gains employment. (Exhibit J). Matthew wishes to gain employment in the recovery field and plans on applying to multiple places in the field, such as Maryhaven, Columbus Springs, The Woods at Parkside Recovery, and the Alvis House. (Exhibit K). Matthew is confident that with a meaningful job, his focus on school, and his strong support system, he will maintain a healthy and productive lifestyle.

III. Sentence Recommendation

The Ohio's sentencing purpose of adequately punishing the offender is not satisfied by the prolonged incarceration of Matthew because, though the accident was the most serious and had a devastating result, the way in which Matthew accepted responsibility for his actions from the very beginning makes the conduct less serious.

Ohio's sentencing purpose of protecting the public from future harm by the offender is not satisfied by continuing to incarcerate Matthew. It is unnecessary to protect the public from Matthew, as he is not likely to commit future crimes as evidenced by his genuine remorse and acknowledgment of the unhealthy pattern, coupled with alcohol and selfishness and immaturity, which led him to act in the manner he did. Further, prior to the incident, Matthew had no criminal history, nor any prior OVI convictions. During his incarceration, Matthew has consistently expressed how this experience has taught him extremely important life lessons and will guide him in making more positive decisions in the future. Matthew has dedicated his time incarcerated to bettering himself and is anxious for a chance to redeem himself and to get his life back on track.

As mentioned above, Matthew Cordle has served six (6) hard years in state penitentiary and faces only the remaining sentence for the first-offense OVI. It is submitted, valuable state and local resources will be conserved and justice would be better served by modifying the Court's sentence and imposing a sentence to a term of community control with the condition that the Defendant undergo a drug and alcohol assessment and complete any treatment that may be recommended. A modified sentence of Community Control offers Matthew the prospect of living a positive and productive lifestyle.

It is submitted that further incarceration in a county jail runs counter to the purposes and principles of misdemeanor sentencing. It is important to note, the felony offense was in a fact an OVI resulting death of another. As such, to suggest this OVI is aggravated would be to misunderstand the elements of under R.C.2903.06 and 4511.191. There is no legitimate punitive goal. Matt has taken upon himself to go beyond the expectations of rehabilitation, for one serving a mandatory sentence. Considering, R.C. **2929.21 Purposes of misdemeanor sentencing:**

the overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(B) A sentence ... shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (A) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

The conduct of OVI and the aggravating result, was punished by a six(6) year mandatory prison sentence. Months in a county jail, will in no way further “protect the public” beyond the sentence already served and Matt’s own rehabilitative actions and commitment can only be undermined or stalled in jail. Without question, restitution (as the statute refers) in this matter was paid. As noted, and inarguably, the conduct of the OVI is an element of the *felony* offense of which the seriousness of the offense was a determining factor in the prison sentence. As such, Matt is currently serving a maximum sentence for what is a first offense OVI, inconsistent with similar offenders. More so, society and the overriding purposes of misdemeanor sentence are clearly *better* served upon Matt’s immediate release. He can then begin to give back, improve other’s lives and impact those similarly situated as he was at 22, as he makes good on his promises started over 6 years ago.

A sentence of Community Control would also allow Matthew to reconnect with his family, who are upstanding citizens, who deter Matthew’s poor decision making, and who could offer their support during his road to recovery. Matthew’s family has remained supportive throughout the duration of his incarceration and will empower Matthew to make positive life decisions upon his release. Matthew has gained a new appreciation for his family throughout his time in prison and credits much of his progress to them and the continuous support and connectedness they have shown him.

Upon his release, Matthew plans to reside with his older sister and brother-in-law in Columbus, Ohio, both of whom are productive, law-abiding members of society. Matthew's sister and brother-in-law will provide a safe, healthy, and structured environment that will aid him in getting back on his feet. In addition to a strong support system from his family, Matthew's close friends have offered constant support to Matthew throughout his time in prison and will continue to provide guidance to him after his released. Matthew also gains support from a community of friends, counselors, and alumni of the OASIS program at the Pickaway Correctional Institution. This community holds Matthew accountable, and encourages him to be responsible and remain on the right path. In sum, Matthew has a strong community of people who care deeply for him, who want to see him do well once he is released, and who will be there for him every step of the way.

Looking forward to his new future, Matthew is committed to applying the skills he has learned through the multiple programs to everyday life situations. Matthew is dedicated to dealing with his problems and feelings in a healthy and positive way. Matthew has been sufficiently shocked by the adjustment and distance from his family while incarcerated but is enthusiastic at the prospect of moving forward with his life and education.

In conclusion, Matthew presents no danger of harm to the public and will not commit future criminal offenses. He is genuinely remorseful for his actions and wishes to start anew. Matthew has invested much time into bettering himself so that, once he is released, he can have a positive future and help others avoid making the same mistakes that he did. Matthew desperately wants to prove to himself, to his friends, and to his family that he is a respectable, productive, and law-abiding member of society. Therefore, release from incarceration is appropriate and a community control sanction is the appropriate punishment for the remainder of Matthew's sentence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing motion was upon the Assistant Franklin County Prosecuting Attorney, by efile service on this, the 27th of September 2019.

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